
HOUSE BILL No. 1662

DIGEST OF INTRODUCED BILL

Citations Affected: None (noncode).

Synopsis: Broadband availability study. Requires the utility regulatory commission (IURC) to conduct a study to determine the availability and quality of broadband service in Indiana. Specifies certain data that the IURC must collect in conducting the study. Requires the IURC to prepare certain maps depicting the availability of broadband service in Indiana. Allows the IURC to use certain sources of information to determine the areas in which providers offer broadband service in Indiana. Requires the IURC to report the findings of its study to the regulatory flexibility committee (committee) not later than November 1, 2008. Specifies certain information, analyses, and recommendations that the report must contain. Allows the committee or the legislative council to require status reports on the commission's study before the final report is due. Allows the committee to recommend legislation to encourage the provision of broadband service in underserved areas, based on the committee's review of the IURC's findings. Provides that certain information collected or reported by the commission is confidential. Requires the IURC and the committee to exercise necessary caution to avoid disclosure of confidential information.

Effective: Upon passage.

Austin, Reske

January 23, 2007, read first time and referred to Committee on Technology, Research and Development.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1662

A BILL FOR AN ACT concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. [EFFECTIVE UPON PASSAGE]: (a) As used in this
- 2 SECTION, "broadband service" has the meaning set forth in
- 3 IC 8-1-2.6-1.3(a).
- 4 (b) As used in this SECTION, "commission" refers to the
- 5 Indiana utility regulatory commission created by IC 8-1-1-2.
- 6 (c) As used in this SECTION, "committee" refers to the
- 7 regulatory flexibility committee established by IC 8-1-2.6-4.
- 8 (d) As used in this SECTION, "provider" means a person or an
- 9 entity that offers broadband service to customers in Indiana.
- 10 (e) As used in this SECTION, "underserved area" means an
- 11 area in Indiana that is not being adequately served with broadband
- 12 service, as determined by the commission under subsection (j)(3).
- 13 (f) The commission shall conduct a study to determine the
- 14 availability and quality of broadband service in Indiana. In
- 15 conducting the study required by this SECTION, the commission
- 16 shall collect data on the following:
- 17 (1) The technologies available to provide broadband service
- 18 in Indiana, including the availability of broadband service



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provided by wireless technology, copper wire, fiber optic cable, coaxial cable, broadband over power lines, and other facilities or technologies.

(2) For each technology that the commission determines under subdivision (1) to be available in Indiana, an identification of the following:

(A) Each provider offering broadband service by means of the identified technology.

(B) The areas in Indiana in which each provider identified under clause (A) offers broadband service by means of the identified technology. The commission may identify an area under this clause by census block or any other unit that the commission determines to be appropriate, given the population, terrain, or other characteristics of a particular area.

(C) For each area in which the identified technology is offered by a provider, as determined by the commission under clause (B):

- (i) the number of customers subscribing to the broadband service offered; and
- (ii) the monthly charges or other fees paid by each customer for the broadband service offered.

If a provider offers broadband service to customers as part of a package or bundle of services, the commission shall, to the extent possible, determine that part of a customer's monthly bill that is attributable to broadband service.

(D) For each area in which the identified technology is offered by a provider, and to the extent determinable by the commission, information on the costs to the provider to deploy, install, lease, or otherwise place in service the facilities or infrastructure necessary to make broadband service available to customers. Information compiled by the commission under this clause is confidential and exempt from public disclosure under IC 5-14-3-4(a)(1).

However, information compiled under this clause:

- (i) may be included in the report submitted to the committee under subsection (j), subject to subsection (m); and
- (ii) shall remain on file in the offices of the commission.

(g) After collecting the data required under subsection (f), the commission shall prepare the following maps:

(1) For each technology identified under subsection (f)(1), a

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statewide map depicting:

(A) the areas in Indiana in which the technology is available; and

(B) the concentration of customers who subscribe to broadband service provided through the use of that technology in each area depicted under clause (A).

(2) An individual map for each area identified under subsection (f)(2)(B) that depicts the location of the infrastructure used to provide broadband service through the use of the technology within the area, to the extent determinable by the commission. A map prepared under this subdivision is confidential and exempt from public disclosure under IC 5-14-3-4(a)(1). However, a map prepared under this subdivision:

(A) may be included in the report submitted to the committee under subsection (j), subject to subsection (m); and

(B) shall remain on file in the offices of the commission.

(3) A statewide map that depicts the areas in Indiana that are underserved, as determined by the commission under subsection (j)(3).

(h) The commission may use any of the following to determine the areas in which providers offer broadband service in Indiana and to collect the data required under subsection (f):

(1) The records concerning certificates of territorial authority that are maintained by the commission under IC 8-1-32.5-13.

(2) The location of copper wire, cables, towers, or other facilities or infrastructure necessary to make broadband service available to customers.

(3) Information reported to the commission by providers under IC 8-1-2.6-13(d)(9).

(4) Information obtained by the commission from customers.

(5) Engineering or cost algorithms developed by the commission's technical staff or any consultants or other professionals employed by the commission under subsection (i).

(6) Any other source of information that is:

(A) considered reliable by the commission; and

(B) subject to verification by the provider to which it pertains.

(i) As necessary to make the determinations and collect the data required under subsection (f), the commission may:

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- 1 (1) make use of the commission's existing resources and
- 2 technical staff;
- 3 (2) employ or consult with outside analysts, engineers, experts,
- 4 or other professionals; and
- 5 (3) consult with other state regulatory commissions that have
- 6 conducted similar studies or surveys.
- 7 (j) Not later than November 1, 2008, the commission shall
- 8 provide a report to the committee on the commission's findings
- 9 from the study conducted under subsection (f). The report
- 10 prepared under this subsection must be separate from the
- 11 commission's annual report to the committee under IC 8-1-2.6-4(c).
- 12 The report to the committee under this subsection must contain the
- 13 following:
- 14 (1) A summary of the data collected by the commission under
- 15 subsection (f).
- 16 (2) Subject to subsection (m), a copy of the maps prepared by
- 17 the commission under subsection (g).
- 18 (3) An identification of the areas in Indiana that are not being
- 19 adequately served with broadband service, as determined by
- 20 the commission. In determining underserved areas in Indiana,
- 21 the commission:
- 22 (A) shall consider:
- 23 (i) the data collected by the commission under subsection
- 24 (f); and
- 25 (ii) the maps prepared by the commission under
- 26 subsection (g);
- 27 (B) may consider the areas determined to be underserved
- 28 areas by the Indiana finance authority under IC 8-1-33-13;
- 29 and
- 30 (C) may designate an area as an underserved area based
- 31 on:
- 32 (i) whether broadband service is available to a specified
- 33 percentage of households or businesses in the area;
- 34 (ii) the percentage of households or businesses in the
- 35 area that subscribe to the broadband services available;
- 36 (iii) whether the broadband services offered in the area
- 37 are available at a price reasonably comparable to the
- 38 price charged for broadband service in an area that is
- 39 not an underserved area;
- 40 (iv) the investment or planned investment in broadband
- 41 infrastructure in the area; or
- 42 (v) any other factor or combination of factors the

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- commission considers appropriate.
- (4) Information concerning:**
 - (A) the capacity, location, and planned or potential use of dark fiber (as defined in IC 8-1-2.6-13(c)) in Indiana, to the extent determinable by the commission; and**
 - (B) whether the dark fiber about which information is provided under clause (A) could be used to provide broadband service to underserved areas.**
- Information reported by the commission under this clause is confidential and exempt from public disclosure under IC 5-14-3-4(a)(1).**
- (5) An analysis of the effectiveness of:**
 - (A) IC 8-1-2.6-1.3(e); and**
 - (B) the Indiana broadband development program administered by the Indiana finance authority under IC 8-1-33;**
- in generating investment in the infrastructure needed to provide reliable and affordable broadband service in underserved areas.**
- (6) Recommendations to the committee on any legislation or policies needed to encourage the deployment of broadband infrastructure in underserved areas, including an analysis of the likely effectiveness of:**
 - (A) property tax abatements for investments in real, personal, or distributable property used to make broadband service available to underserved areas; and**
 - (B) other financial or regulatory incentives to encourage investment in broadband infrastructure or service.**
- (7) Any other information concerning the availability and quality of broadband service in Indiana that the commission considers useful to the committee.**
- (k) Before the commission submits its report to the committee under subsection (j), the committee or the legislative council may require the commission to provide one (1) or more status reports on the commission's study under subsection (f). A status report provided to the legislative council under this subsection must be in an electronic format under IC 5-14-6.**
- (l) The committee:**
 - (1) shall review the analyses and recommendations of the commission contained in:**
 - (A) any status reports prepared by the commission under subsection (k); and**

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1 **(B) the commission's final report prepared under**
 2 **subsection (j); and**
 3 **(2) may recommend to the general assembly any legislation**
 4 **that the committee considers necessary to encourage the**
 5 **provision of reliable and affordable broadband service in**
 6 **underserved areas in Indiana.**
 7 **(m) This SECTION does not empower:**
 8 **(1) the commission;**
 9 **(2) the committee; or**
 10 **(3) the legislative council;**
 11 **to require providers to disclose confidential and proprietary**
 12 **business plans and other confidential information without**
 13 **adequate protection of the information. The commission, the**
 14 **committee, and the legislative council shall exercise all necessary**
 15 **caution to avoid disclosure of confidential information supplied**
 16 **under this SECTION.**
 17 **(n) This SECTION expires January 1, 2009.**
 18 **SECTION 2. An emergency is declared for this act.**

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